

Assembly Bill No. 380

Passed the Assembly August 29, 2014

Chief Clerk of the Assembly

Passed the Senate August 25, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 5 (commencing with Section 25547) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 380, Dickinson. Spill response for railroads.

Existing law requires the Office of Emergency Services to implement regulations establishing minimum standards for business plans and area plans relating to the handling and release or threatened release of hazardous materials. Existing law requires the establishment of a statewide environmental reporting system for these plans.

This bill would require a rail carrier, as defined, to report specified information regarding the transportation of hazardous materials, beginning no later than January 31, 2015, to the office on a quarterly basis. The bill would require a rail carrier to prospectively estimate and submit to the office notification of the weekly movements of trains through a county, as specified. The bill would require a rail carrier to update that notification once every 6 months. The bill also would require a rail carrier to update and notify the office within 30 days of the rail carrier determining that there will be a material change in the estimated volume of Bakken oil, as defined, plus or minus 25% per week relative to the most recent estimate previously submitted to the office. The bill would require each rail carrier to maintain a response management communications center, as specified. The bill would require the office to disseminate information necessary for developing emergency response plans from the reports it receives pursuant to this act to each unified program agency, as defined, when the office determines a unified program agency area of responsibility may be impacted by a hazardous material or oil cargo spill. The bill would require each rail carrier to provide the office with a summary of the rail carrier's hazardous materials emergency response plan, as specified. The bill would require the office to provide a copy of each summary report of a rail carrier's hazardous materials emergency response plan to each unified program agency when

the office determines a unified program agency area of responsibility may be impacted by a rail carrier spill of hazardous material or oil cargo, as specified. The bill would prohibit a recipient of the reports and hazardous materials emergency response plan from divulging or making known that information to unauthorized recipients, as specified.

The people of the State of California do enact as follows:

SECTION 1. Article 5 (commencing with Section 25547) is added to Chapter 6.95 of Division 20 of the Health and Safety Code, to read:

Article 5. Spill Prevention and Response for Railroads

25547. For purposes of this article, the following terms have the following meanings:

(a) “Bakken oil” means petroleum crude oil, Class 3, sourced from the Bakken shale formation in the Williston Basin.

(b) “Hazardous material” means a substance or material that the United States Secretary of Transportation has determined to be capable of posing an unreasonable risk to the health, safety, and property of residents when transported in commerce and has been designated as hazardous pursuant to Section 5103 of Title 49 of the United States Code. Hazardous material includes hazardous substances, as defined in Section 25501, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in Section 172.101 of Title 40 of the Code of Federal Regulations, and materials that meet the defining criteria for hazard classes and divisions in Part 173 of Title 49 of the Code of Federal Regulations.

(c) “Hazardous materials emergency response plan” shall have the same meaning as “emergency response program to hazardous substance release” set forth in Section 1910.120(q) of Title 29 of the Code of Federal Regulations.

(d) “Office” means the Office of Emergency Services.

(e) “Oil” has the same meaning as in Section 8670.3 of the Government Code.

(f) “Rail carrier” means a person providing common carrier railroad transportation for compensation, but does not include

street, suburban, or interurban electric railways not operated as part of the general system of rail transportation.

25547.2. (a) No later than January 31, 2015, and every three months thereafter, a rail carrier shall prepare and submit to the office commodity flow data for the prior three months broken down by county and track route relevant to the 25 largest hazardous material commodities transported through the state, including tank cars loaded with oil cargo. The commodity flow data shall conform to all of the following:

(1) Be in accordance with Subpart G of Part 172 of Title 49 of the Code of Federal Regulations and in Standard Transportation Commodity Code numeric sequence.

(2) Include a description of the hazardous material or oil cargo and commodity name organized by number of carload type, including tank cars and gondola cars, intermodal loads, including trailers, containers and tank containers, and total loads transported within a county over the prior three months.

(b) The office shall provide access to commodity flow data as authorized by Part 15 (commencing with Section 15.1), Part 1520 (commencing with Section 1520.1), and Part 172 (commencing with Section 172.1) of Title 49 of the Code of Federal Regulations and Section 11904 of Title 49 of the United States Code.

(c) (1) Beginning January 31, 2015, consistent with the United States Department of Transportation's Emergency Order Docket No. DOT-OST-2014-0067, and any subsequent amendments to that order, a rail carrier shall prospectively estimate and submit to the office notification of the weekly movements of trains through a county, including, but not limited to, track route and volumes of shipments of Bakken oil in amounts equal to or greater than one million (1,000,000) gallons per train consist. A rail carrier shall update the notification provided pursuant to this paragraph once every six months.

(2) Notwithstanding paragraph (1), a rail carrier shall update and notify the office within 30 days of the rail carrier determining that there will be a material change in the estimated volume of Bakken oil plus or minus 25 percent per week relative to the most recent estimate previously submitted to the office.

(d) The office shall disseminate information necessary for developing emergency response plans from the reports prepared pursuant to subdivisions (a) and (c) in whole or in summary form

to a unified program agency, as defined in Section 25501, when the office determines a unified program agency area of responsibility may be impacted by a hazardous material or oil cargo spill. Rail carriers shall provide additional information to the office related to the specific commodity flow data and Bakken oil to assist a unified program agency with its emergency response planning.

25547.4. Each rail carrier shall maintain a response management communications center, which shall provide real-time information to an authorized public safety answering point or 911 emergency response center about the train consist involved in a hazardous material or oil cargo spill or other critical incident, including, but not limited to, both of the following:

(a) Hazardous material movement shipping papers, including a way bill or total trace, detailing the hazardous material or oil cargo.

(b) Information that can assist the primary local public safety agency in containing and safely removing a hazardous material spill.

25547.6. (a) Each rail carrier shall provide the office with a summary of the rail carrier's hazardous materials emergency response plan. The rail carrier's hazardous materials emergency response plan summary shall not be posted on a public Internet Web site.

(b) The office shall provide a copy of each summary report of a rail carrier's hazardous materials emergency response plan to each unified program agency, as defined in Section 25501, when the office determines a unified program agency area of responsibility may be impacted by a rail carrier spill of hazardous material or oil cargo. The provision of the summary report of a rail carrier's hazardous materials emergency response plan shall comply with Part 15 (commencing with Section 15.1), Part 1520 (commencing with Section 1520.1), and Part 172 (commencing with Section 172.1) of Title 49 of the Code of Federal Regulations and Section 11904 of Title 49 of the United States Code.

25547.8. A recipient of the reports and plans provided pursuant to Sections 25547.2 and 25547.6 shall comply with Part 15 (commencing with Section 15.1), Part 1520 (commencing with Section 1520.1), and Part 172 (commencing with Section 172.1) of Title 49 of the Code of Federal Regulations and Section 11904

of Title 49 of the United States Code for the purposes of determining who may have access to the information contained in the reports and shall not divulge or make known that information to unauthorized recipients. Disclosure and dissemination of information in the reports shall be done to assist with emergency response planning.

Approved _____, 2014

Governor